

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 188 OF 2002

INTERNATIONAL EDUCATION AND
FELLOWSHIP TRUST

... Petitioner

Versus

STATE OF GOA & ORS.

... Respondent

None for the petitioner.

Mr. D. Pangam, Advocate for the respondent No.3.

Coram:- R.M.S. KHANDEPARKAR &
R. S. MOHITE, JJ.

Date:- 17th August, 2007

P.C.

None present for the petitioner. Mr. Pangam for the respondents. By the present petition, the petitioner is challenging the reference made under Section 10 of the Industrial Disputes Act, 1947 on two grounds, namely that the petitioner is not the industry within the meaning of the said expression under the said Act and that the respondent no.3 is not the workman within the meaning of the said expression under the said Act.

2. The learned Counsel for the respondent states that pursuant to the reference, recording of evidence has commenced. He has also drawn our attention to the decision of the Apex Court in Sharad Kumar vs. Govt. of NCT of Delhi and ors., reported in (2002) 4 SCC 490. In the said decision, the Apex Court has clearly held that the points of the nature which were sought to be raised in the matter for determination thereof, it requires examination of factual matters, including the oral evidence to be led by the parties. Considering this aspect and bearing in mind the decision of the Apex Court in Sharad Kumar vs. Govt. of NCT of Delhi and ors.,(supra), the respondent is justified in contending that the

challenge which is thrown in the petition to the reference under Section 10 of the said Act, is not maintainable and the matter is required to be left to the decision of the tribunal on both the said issues which are sought to be raised in this petition.

3. In the circumstances, leaving both the said issues open for appropriate decision by the Tribunal, the petition is, hereby, dismissed. Rule is discharged. No order as to costs.

R.M.S. KHANDEPARKAR, J.

R. S. MOHITE, J.

ssm.